

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANTHONY MILLER,

Movant,

v.

UNITED STATES OF AMERICA,

Defendant.

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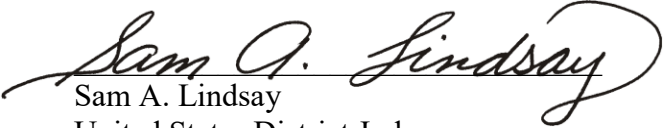
Civil Action No. **3:19-CV-1844-L**
Criminal Action No. **3:13-CR-0431-L**

ORDER

On September 23, 2019, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 6) was entered, recommending that Movant’s amended motion to vacate, set aside, or correct his federal sentence under 28 U.S.C. § 2255 (Doc. 5), filed August 20, 2019, be construed as a successive motion for post-conviction relief and transferred to the United States Court of Appeals for the Fifth Circuit. *See* 28 U.S.C. § 2244(b)(3). No objections to the Report were received as of the date of this order.

When a post-conviction motion is deemed successive, the district court lacks subject matter jurisdiction unless a panel of the Fifth Circuit allows the successive motion to proceed. After reviewing the pleadings, file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. As the court construes Movant’s amended motion to vacate, set aside, or correct his federal sentence under 28 U.S.C. § 2255, as a successive motion for post-conviction relief, it lacks subject matter jurisdiction to entertain this action and **directs** the clerk of court to **transfer** the action to the Fifth Circuit for determination.

It is so ordered this 15th day of November, 2019.


Sam A. Lindsay
United States District Judge